IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2730 OF 2006
ALONGWITH
CRIMINAL WRIT PETITION NO.2731 OF 2006
ALONGWITH
CRIMINAL WRIT PETITION NO.2732 OF 2006
ALONGWITH
CRIMINAL WRIT PETITION NO.2733 OF 2006
ALONGWITH
CRIMINAL WRIT PETITION NO.2734 OF 2006

M/s. Ravi Steel Sales and Anr. ...Petitioners

V/s.

M/s.Arya Ship Breaking Company & Anr. ...Respondents

Mr.Shreekant V. Gavand for Petitioners.
Mr.Dharmendra Rohra and Ganesh Iyer for Respondent No.1.
Mr.Y.S. Shinde APP for the State.

CORAM : V.M. KANADE, J.
DATED : 9th OCTOBER, 2007.

P.C:-

1. Heard learned counsel for the Petitioners and learned counsel for the Respondents.

2. Petitioners are challenging the orders passed by the Sessions Court in Criminal Appeals No.705/06, 706/06, 707/06, 708/06 and 709/06 which were filed by the Petitioners herein challenging orders passed in

Cases No.480/S/2002, 481/S.2002, 482/S/2002, 483/S/2002 and 610/S/2002 by the M.M. 28th Court, Esplanade, Mumbai who was pleased to convict the Petitioner No.2 for the offence punishable U/s.138 of N.I. Act and sentenced him to suffer S.I. for period of four months and to pay fine of Rs.5,000/- in default to suffer S.I. for four months in each case respectively. Learned Magistrate was also pleased to direct the Petitioner No.2 to pay compensation of Rs.1,71,400/-, 1,40,000/-, 1,55,000/-, 1,50,600/- and 2,86,000/- in default to suffer S.I. for four months in each case respectively. Against these orders, Petitioners preferred appeals in the Sessions Court. The Sessions Court directed the Petitioners to pay 50% of the said amount of compensation within a period of three months in each appeal respectively. In all there are six cheques and therefore, five petitions have been filed.

3. Learned counsel for the Petitioners submitted that it is not possible for the Petitioners to deposit said amount and that, therefore, said orders directing the Petitioners to pay compensation may be set aside. He relied on the judgment of the Apex Court in the Case of **Dilip S. Dahanukar V/s. Kotak Mahindra Co. Ltd & Anr. reported in 2007(3) Bom. C.R. 28**.

4. Learned counsel for the Respondents, on the other hand, submitted that the Petitioner No.2 had initially issued six cheques and these cheques were dishonoured. Thereafter, Petitioner No.2 had given undertaking and filed consent terms. However, subsequent cheques which were issued were also dishonoured. The Petitioner No.2, on the contrary, has taken a plea that consent terms and cheques were obtained in coercion when he was detained by the police.

5. Be that as it may. In my view, since appeals are pending in the Trial Court, adequate opportunity should be given to the Petitioners to agitate appeals, since it is a substantive right of the accused to prefer an appeal. In my view, ends of justice would be met if amount of compensation which is directed to be deposited by the Sessions Court in all these cases is reduced to 3,00,000/-. Said amount shall be deposited by the Petitioners within two months from today. Hearing of the appeals are also expedited. The Trial Court shall decide the appeals as expeditiously as possible and in any case within a period of two months from today.

. Criminal Writ Petitions are disposed of accordingly.

V.M. KANADE, J.